

LESLIE NELSON,)	
)	
Plaintiff,)	Case No. C08-1536-JCC
)	
v.)	
)	REPORT AND
FBI-SEATTLE)	RECOMMENDATION
)	
Defendants.)	
)	

First, plaintiff has not named a proper party. Under the FTCA, the United States is the only proper party defendant. *See* 28 U.S.C. § 2679(a) (1998). Plaintiff's claim against the FBI is not a claim against the United States. *See Kennedy v. United States Postal Service*, 145 F.3d 1077, (9th Cir. 1998).

REPORT AND RECOMMENDATION – 1

1 alleges the FBI has violated her rights regarding phone harassment occurring on December 4,
2 2001, December 15, 2002, and December 29, 2006. Dkt. 1 at 14. The 2001 and 2002 harassments
3 are time barred and must be dismissed on that basis.

4 The 2006 harassment allegation is not time barred but should be dismissed because
5 plaintiff has not alleged sufficient facts to demonstrate a justiciable claim. *See* Fed. R. Civ. P.
6 12(b)(6). Plaintiff's 25 page complaint makes extensive references to plaintiff's terrorism and
7 national security research but skips over the factual basis for her claim that the FBI violated her
8 rights regarding phone harassment.

9 Based on the deficiencies in plaintiff's complaint, her *in forma pauperis* application should
10 be denied and this action should be dismissed without prejudice. If plaintiff believes that the
11 deficiencies outlined herein can be cured by amendment to her complaint, she should lodge an
12 amended complaint as part of her objections, if any, to this Report and Recommendation. A
13 proposed Order of Dismissal accompanies this Report and Recommendation.

14 DATED this 28th day of October, 2008.

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17 BRIAN A. TSUCHIDA
18 United States Magistrate Judge
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